

## United States Postal Service

## § 963.4

963.22 Public information.

AUTHORITY: 39 U.S.C. 204, 401, 3008.

SOURCE: 52 FR 18912, May 20, 1987, unless otherwise noted.

### § 963.1 Authority for the rules.

These rules of practice are issued by the Judicial Officer of the U.S. Postal Service pursuant to authority delegated by the Postmaster General (39 CFR 226.2(e)(1)).

[52 FR 18912, May 20, 1987, as amended at 59 FR 10751, Mar. 8, 1994]

### § 963.2 Scope of the rules.

These rules of practice are applicable to cases in which the Prohibitory Order Processing Center Manager (hereinafter, "Manager") has issued a complaint, pursuant to 39 U.S.C. 3008(d), alleging violation of a prohibitory order, and in which the alleged violator has petitioned for a hearing in the matter. As provided in 39 U.S.C. 3008(h), subchapter II of chapter 5 (relating to administrative procedure) and chapter 7 (relating to judicial review) of part I of title 5, U.S.C., do not apply to the hearings authorized by 39 U.S.C. 3008(d).

[52 FR 18912, May 20, 1987, as amended at 59 FR 10751, Mar. 8, 1994, 62 FR 4459, Jan. 30, 1997]

### § 963.3 Petition; notice of hearing; answer; filing and copies of documents; summary judgment.

(a) *Petition.* Anyone against whom a complaint has been issued pursuant to 39 U.S.C. 3008(d) may submit to the Manager a petition for hearing on the alleged violation. The petition must be in writing, signed by the petitioner or his or her attorney, and filed with the Manager on or before the 15th day after receipt of the complaint. The petition shall state the reasons why the petitioner believes the complaint to be erroneous. No petition received after the 15th day will be considered to have been filed on time, unless it was duly sent to the Manager via certified mail, deposited in the U.S. mail on or before the 15th day. The Manager will forward each timely petition to the Recorder, Judicial Officer Department, U.S. Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078.

(b) *Notice of hearing.* Upon receiving a petition, the Recorder shall schedule a hearing for a date not later than 30 days after the date of receipt, issue and send a notice of hearing to the parties, and send a copy of the petition to the General Counsel of the U.S. Postal Service.

(c) *Answer.* The General Counsel shall file with the Recorder an answer to the petition within 15 days after the date of receiving a copy thereof. A certified copy of the material documents from the Manager's case file (i.e., of the PS Forms 1500, *Application for Listing and/or Prohibitory Order*, 2152, *Prohibitory Order*, and 2153, *Complaint*, underlying mail pieces, and pertinent return receipts) shall be appended to the answer.

(d) *Filing and copies of documents.* With the exception of the initial petition, all documents shall be filed with the Recorder in triplicate at the address set forth above. The Recorder shall promptly provide copies to the other party to the proceeding and to the presiding officer.

(e) *Summary Judgment.* Upon motion of either the General Counsel or the petitioner, or on his or her own initiative, the presiding officer may find that the petition and answer present no genuine and material issues of fact requiring an evidentiary hearing, and thereupon may render an initial decision upholding or dismissing the complaint. The initial decision shall become the final agency decision if a timely appeal is not taken.

[52 FR 18912, May 20, 1987; 52 FR 20599, June 2, 1987, as amended at 59 FR 10752, Mar. 8, 1994; 62 FR 4459, Jan. 30, 1997; 63 FR 66053, Dec. 1, 1998]

### § 963.4 Presiding Officer.

(a) The presiding officer shall be an Administrative Law Judge or an Administrative Judge qualified in accordance with law. The Judicial Officer assigns cases under this part. Judicial Officer includes Associate Judicial Officer upon delegation thereto. The Judicial Officer may, on his or her own initiative or for good cause found, preside at the reception of evidence.

(b) The presiding officer has authority to: